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October 4, 2021

Honorable Nancy Joseph
United States District Court, Eastern District of Wisconsin
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

RE: 20-CV-1660 Causier Deposition Recording

Dear Judge Joseph:

As discussed during the scheduling conference on October 1, 2021, the audio recording of the Kathy Causier deposition is being provided to the Court by email and mail. The record in this case is large, and this deposition has been addressed in numerous filings. I believe the following docket references add clarification to the audio recording.

As the Court referenced, the Kathy Causier deposition transcript ends as follows:

A No.

Q Okay.

(Deposition adjourned 2:26:38)

(Dkt. 67, p. 92) The audio recording does not end as transcribed—in fact, the transcript goes as far as only including a portion of Attorney Motley’s response. Plaintiffs’ counsel and Court Reporter, Miriam Beckford have refused to explain why there are portions of the record which were not transcribed. Those discussions occur at approximately 2:26:35. While the transcript reflects Attorney Motley’s “Okay” it conveniently excluded the rest of her statement:

Attorney Motley: Okay I’m going to jump off-Kate you can finish. I’m going to call the court.

Further discussions about the status of the deposition were also excluded from the transcript:

Attorney Knowlton (to Attorney Baynard): Do you have a question for her?

Attorney Baynard: I’m going to meet with her quick and see if we can wrap up...

Attorney Baynard (to Attorney Knowlton): Do you have any other questions?

The audio does not clearly capture a response from Attorney Knowlton. However, Attorney Knowlton acknowledged—in filings with this Court—that she did not have any additional questions the morning of the deposition:

While Defendant Counsel Baynard was participating in the status conference, myself and Defendant Counsel Moore had brief conversations about the continuing deposition of Ms. Causier. It was specifically stated that I did not believe I had any more questions that morning, but I had not conferred with Attorney Motley who had been conducting the deposition as well. Additionally, Attorney Moore stated he was not sure whether Attorney Baynard had any questions.

(Dkt. 48) While Plaintiffs’ Motion for Sanctions—acknowledges Attorney Knowlton had no additional questions the morning of the deposition—it suggests it was possible Attorney Motley or Attorney Baynard had questions. Plaintiffs’ own exhibit for their Motion for Sanctions is a July 16, 2021, email from Attorney Knowlton to Attorney Baynard discussing the deposition. This was the email I referenced during the scheduling conference. (Dkt. 48-8)

At some point while you were on the call with the Court, Attny. Moore also inquired as to whether the deposition of Ms. Causier was concluded, stating that you didn't have any questions for her. I stated that it could be concluded for today, referencing the other scheduled depositions (and my understanding that he might be attending them - he said that was not the case, he was busy with other things), and he asked why Ms. Causier's deposition was not concluded. I stated that we might gather more information that would necessitate her again, so it would be adjourned for today, and that it had not been properly concluded at all anyway. He shook his head and went back into an office.

(Dkt. 48-8) The email acknowledges Attorney Baynard had no questions, never suggests Attorney Motley had additional questions and the reason for not concluding the deposition was because Plaintiffs “might gather more information that would necessitate her again.”

In further support of their Motion for Sanctions, Plaintiffs included an August 11, 2021, email from Attorney Baynard to Plaintiffs’ counsel reflecting her understanding of how the deposition concluded:

CC Members: Kathy Causier, I did not agree to produce Kathy a second time. I don't have the transcript yet from the July 13, 2021 deposition, but it was my understanding that Attorney Knowlton was done and we took a break to see if I wanted to ask any follow-up. Unfortunately the Court's 11:30 hearing occurred and I decided I had no need for any additional questions. This is precisely why I was hesitant to have that hearing scheduled, but was assured the deposition would be done prior to that. Even with the approx. 20 minute break that we took. I will review the tape from the deposition if you have it, but that's the City's position at this time.

(Dkt. 48-11)

The audio recording also contains an additional discussion “off the record” at approximately 1:56:40. (Also not transcribed). During the discussion Attorney Baynard continually states she does not want to adjourn the deposition and her desire is to finish the deposition despite a health concern. Attorney Baynard says let’s finish this today and Attorney Motley agrees she is fine with finishing, and she has maybe another 10 minutes of questions. (Dkt. 48-12).

The deposition goes “back on the record” and approximately eight minutes later Attorney Motley asks Attorney Knowlton if she has any questions—which Attorney Knowlton answers “no.” (Dkt. 67 at p. 82) Attorney Motley then states “I just have one more—a couple of more questions. I’m almost done” (Dkt. 67 at p. 82) and later, “I have nothing further” (Dkt. 67 at p. 87) before ultimately telling Attorney Knowlton to finish the deposition.

Respectfully submitted,

/s/ Kiley B. Zellner

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